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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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DEC - 7 2005

Federal Communications Commission  
Office of Secretary

In the Matter of )  
)  
Amendment of Section 73.202(b), ) MB Docket No. 02-376  
Table of Allotments, ) RM-10617  
FM Broadcast Stations ) RM-10690  
(Sells, Willcox, and Davis-Monthan )  
Air Force Base, Arizona )

To: Office of Secretary  
Attn: Chief, Audio Division,  
Media Bureau

**OPPOSITION TO MOTION AND  
REPLY TO SECOND SUPPLEMENT**

Lakeshore Media, LLC ("Lakeshore"), licensee of Station KWCX-FM, Willcox, Arizona, by its counsel, hereby opposes the "Motion for Leave to File Second Supplement to Opposition" filed by Journal Broadcast Corporation ("Journal") in the above-captioned proceeding. Lakeshore has petitioned for reconsideration of the *Report and Order* in this proceeding. Journal filed an opposition, to which Lakeshore replied. Journal has twice attempted to supplement its opposition. Lakeshore opposed Journal's first attempt, and it likewise opposes Journal's second attempt. If the Commission nevertheless accepts Journal's Second Supplement, it should consider these comments in reply. In support hereof, Lakeshore states as follows:

1. Journal's first supplement sought to introduce into the record the fact that Cochise Broadcasting LLC, applicant for a new station at Lordsburg, New Mexico, had amended its application with different facilities than originally filed. Journal's second supplement seeks to introduce into the record the fact that the Commission has granted the amended application. However, neither of these facts is relevant to this proceeding.

2. Journal's argument is that analyzing the Lordsburg facilities *as applied for and granted*, Lakeshore's proposal to remove Channel 285C2 from Willcox, Arizona would create

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“white” area. This argument fails as a matter of law. In considering whether an area has reception service, FM stations other than class C stations are analyzed *as if they were constructed with maximum facilities for their class*. *Greenup, Kentucky and Athens, Ohio*, 4 FCC Rcd 3843 (1989), *aff’d in pertinent part*, 6 FCC Rcd 1493 (1991).<sup>1</sup> It does not matter that the licensee has no intention of *ever* upgrading to maximum facilities – for the purposes of “white” and “gray” area calculations, maximum facilities are *always* used. *See Banks, Sunriver, Redmond, and Corvallis, Oregon*, 19 FCC Rcd 10068, ¶21 (2004) (treating KFLY(FM) as a maximum Class C0 station even though it proposed operation on lesser facilities).

3. Journal’s argument is also clearly speculative. Construction permits may be applied for and not granted; they may be granted and not constructed; and they may be modified during their period of existence. Journal even admits that its previous submissions were speculative. *See* Second Supplement at 3 (“Up to now, this matter was argued on hypothetical outcomes.”). The outcome is still no less hypothetical. The mere grant of a construction permit does not create radio service, and even the construction of facilities does not preclude an expansion of service in the future. The Commission’s policy is grounded on the sensible premise that “there are significant economic incentives for stations to provide service to the greatest area possible for their class of station.” *Greenup*, 4 FCC Rcd 3843 at ¶15 (1989).<sup>2</sup> Thus, even when a station has been operating for years at less than maximum facilities, potential service exists to the extent of its coverage limit. This policy applies even more strongly when the station has

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<sup>1</sup> *See also Harrisburg and Albemarle, North Carolina*, 11 FCC Rcd 2511, 15 (1996) (“we believe that it is appropriate for allotment purposes to determine coverage areas, and those portions of which are characterized as loss areas, based on the use of maximum facilities”); *Elkins, West Virginia; Mountain Lake Park and Westernport, Maryland*, 6 FCC Rcd 5830 (1991), *pet. for recon. granted in part*, 7 FCC Rcd 5527 (1992) (affirming use of maximum facilities), *app. for review denied*, 10 FCC Rcd 10433, 4 (“we compare the extent of potential service to be offered, that is, the service provided using maximum facilities for the class of station”); *Live Oak and St. Augustine, Florida*, 4 FCC Rcd 758 (1989).

<sup>2</sup> Different considerations come into play for Class C stations, because of the difficulty of achieving full class C facilities. *Id.* at n.12.

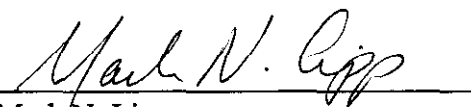
never been constructed, as is the case with the Lordsburg station at issue here. Journal makes no argument that existing law should be changed, nor should it. The *Greenup* methodology is a direct consequence of allotting FM stations by minimum distance spacings as opposed to contour protection, and has not been called into question.

4. Lakeshore has previously demonstrated that using maximum facilities for all licensed facilities and construction permits (but relying on vacant allotments), the entire loss area receives coverage from one or more stations. This coverage includes a contribution from the Lordsburg application, properly analyzed as a maximum Class C1 station, and from Station KCDQ(FM), Tombstone (formerly Douglas), Arizona, as described in Lakeshore's petition for reconsideration. Its most recent demonstration to that effect is reproduced and attached hereto.

WHEREFORE, the Commission should deny Journal's Motion to Supplement its Opposition. It should grant Lakeshore's proposal to relocate Station KWCX-FM from Willcox to Davis-Monthan Air Force Base, Arizona.

Respectfully submitted,

LAKESHORE MEDIA, L.L.C.

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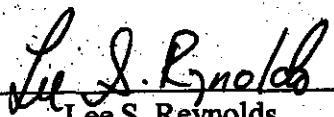
Its Counsel

December 7, 2005

**Engineering Statement  
KWCX(FM)  
Remaining Services Study**

The attached map shows the KWCX(FM) remaining services study. This map assumes maximum facilities for the application on Channel 279C1 at Lordsburg, NM and for the construction permit for KCDQ(FM) at Tombstone (formerly Douglas), AZ. FCC precedent allows for all commercial stations below class C status to be considered as a maximum facility for the appropriate class. The map does not include the 0.5 mV/m contour of KHIL(AM), 1250 kHz. When this station is considered, the entire loss area is covered with its interference-free contour.

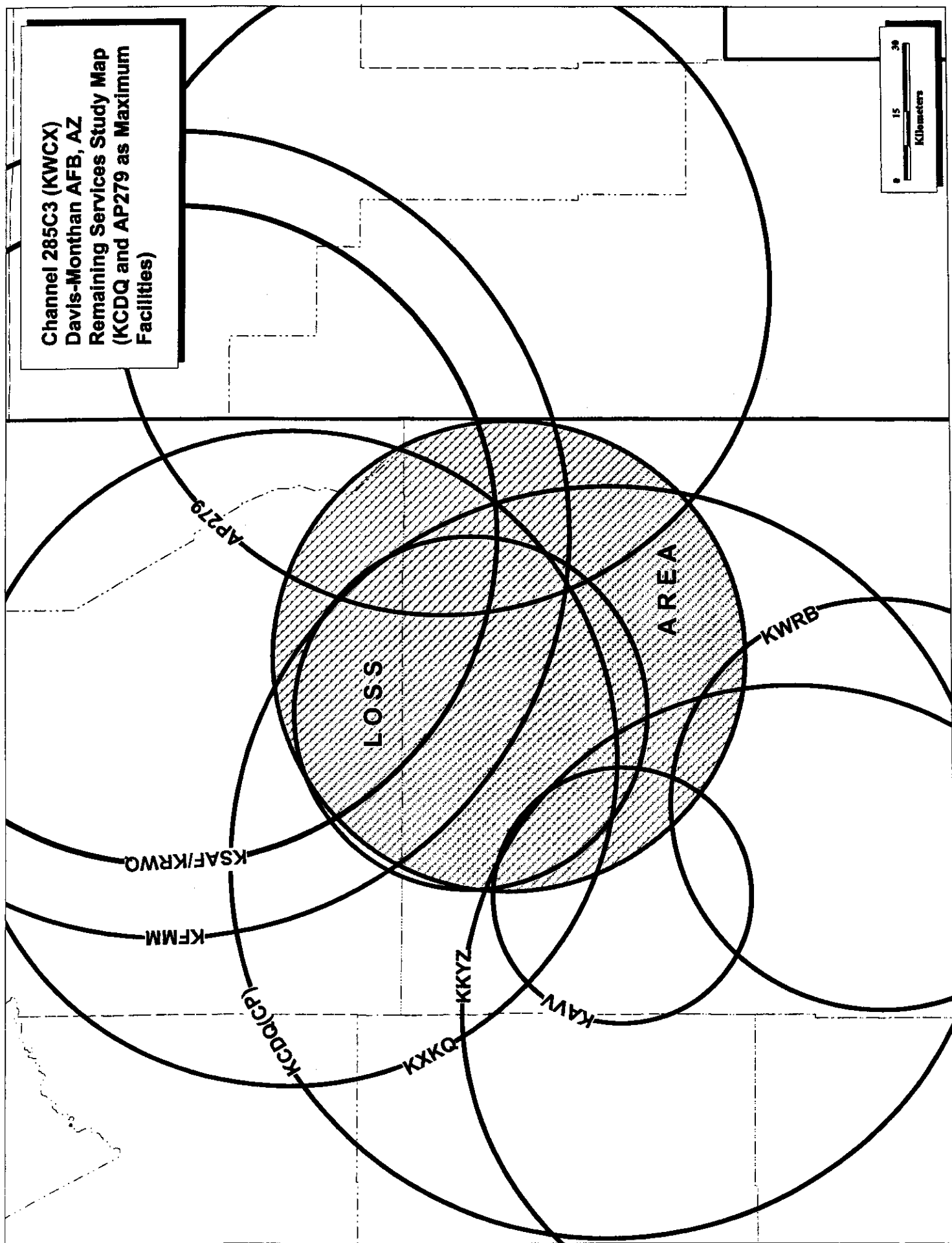
For Lakeshore Media, LLC:

  
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**Channel 285C3 (KWCC)  
Davis-Monthan AFB, AZ  
Remaining Services Study Map  
(KCDQ and AP279 as Maximum  
Facilities)**

A horizontal scale bar with tick marks at 0, 15, and 30. The word "Kilometers" is written below the bar.



**CERTIFICATE OF SERVICE**

I, Diana Gonzales, hereby certify that on this 7th day of December, 2005, copies of the foregoing "Opposition to Motion and Reply to Second Supplement" were sent via first-class mail, postage prepaid, to the following:

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